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IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

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CHAMPION MORTGAGE, A DIVISION
OF KEY BANK, USA,

Plaintiff,

v.

IDA M. GREEN, ESTATE OF JAMES C.
GREEN, JR., MASSACHUSETTS
DEPARTMENT OF REVENUE - ESTATE TAX
DIVISION, FAIR LABOR AND BUSINESS
PRACTICES DIVISION OF THE OFFICE
OF THE MASSACHUSETTS ATTORNEY
GENERAL, GLORIA ROSCOE, FRANCISCO
DePINA, and THE UNITED STATES
OF AMERICA,

Defendants.

U.S. DISTRICT COURT
DISTRICT OF MASS.

Civil No.
05 CV 10375 WGY

UNITED STATES' REQUEST TO ENLARGE TIME TO ANSWER OR RESPOND

On, or about, February 25, 2005, the defendant United States of America removed this action to this Court. The defendant United States hereby respectfully requests this Court to enter an order enlarging, to and including April 1, 2005, the time in which the United States shall be permitted to serve an answer, a motion, or such other response as may be permitted by the Federal Rules of Civil Procedure, with respect to the complaint in the above-titled action.

No memorandum is submitted in support of this request as it is not a motion. As provided by Rule 6(b)(1) of the Federal Rules of Civil Procedure, the district court has discretion to grant requests to enlarge time "without motion or notice before the expiration of the period." (emphasis added) In contrast, Rule 6(b)(2) limits enlargements to the granting of motions made upon grounds of excusable neglect. Accordingly, here we are making a timely request under

Rule 6(b)(1).

In making this request, we note that Rule 81(c) of the Federal Rules of Civil Procedure governs the procedure in civil actions removed from the state courts to the United States District Courts. Rule 81(c) first provides that the Federal Rules of Civil Procedure apply to removed cases. The Rule goes on to prescribe certain periods for the service of an answer or other defenses. The governing time period under Rule 81(c) may be as short as five days after removal. Plaintiff's complaint is brought under 28 U.S.C. § 2410 as an action affecting property on which the United States has a lien. Pursuant to 28 U.S.C. § 2410(b), the United States may appear and answer, plead or demur within sixty days after service or such other time as the court may allow. See 28 U.S.C. § 2410(b). The undersigned trial counsel represents that more than five days are required to prepare and to serve an appropriate response raising the defenses of the United States. The period of additional time requested is commensurate with the sixty-day period permitted under 28 U.S.C. § 2410(b), as service was made on the United States on January 31, 2005. Moreover, due to the number of factual and legal issues raised by the complaint, the requested enlargement of time is necessary to prepare a proper response.

Therefore, the United States requests the appropriate sixty-days in which to answer or otherwise respond to the complaint, up to and including April 1, 2005.

I hereby certify that a true copy of the above document was served upon (each party appearing pro se and) the attorney of record for each other party by mail on

2/25/05 S.W. Smith

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Respectfully submitted,

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